REMARKS

This Second Amendment responds to the Office Action mailed on June 07, 2005. A petition for a one month extension of time in filed herewith.

Claims 1-4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Graumann (U.S. 6,175,634) in view of Reaves (WO 9602911A1). Claim 1 has been amended to include the limitations of claim 3, and claim 3 has been cancelled. Reconsideration is respectfully requested.

According to the invention set forth in the claims, in the event that the variance parameter is greater than the difference in the energy of the signal within each of the sample windows, the variance parameter is adjusted with a predetermined decay ratio. In the event that the variance parameter is less than or equal to the difference, then the variance parameter is adjusted with a predetermined attack ratio. In rejecting claim 3, the Examiner relied on the Graumann reference, Figures 17 and 18 and column 10, line 65 to column 12, line 44. This portion of the Graumann reference, however, discloses the use of attack and decay rates for updating/calculating a signal E_{FOL}, which is completely different from the standard deviation parameter disclosed in the Graumann reference and not the least bit suggestive of Applicant's claimed variance parameter. The E_{FOL} signal is a follower energy value that tracks (follows) the current frame energy E_{AVG}. The value of the follower energy signal E_{FOL} is used by the energy mapper to determine a logarithmic attenuation value. This is completely different from the variance parameter of the claims of the present application.

While Graumann uses the words attack and decay, these words are not used in the same context as in the clams of the present application. There is absolutely no mention of adjusting the variance parameter with a predetermined decay ratio in the event that the variance parameter is greater than the difference in the energy of the signal within each of the sample windows, and

adjusting the variance parameter with a predetermined attack ratio in the event that the variance parameter is less than or equal to the difference.

Since the cited art completely fails to teach or suggest the adjustment of the variance parameter as recited in amended claim 1, there is no possibility of combining the art to arrive at the claimed invention Since claims 2 and 4 include all of the limitations of claim one, these claims are also believed to fully distinguish over the cited references.

For at least these reasons, Applicants respectfully submit that the claims 1, 2 and 4 are in condition for allowance. The Examiner is therefore respectfully requested to enter the above amendment and pass this case to issue. Alternatively, Applicants request that the above amendment be entered to put the application in better condition for appeal.

Respectfully submitted,

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